
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

TREVOR S. ERICKSEN, a man,
ALENA ERICKSEN, a woman, JOHN
WALTON ORTEN, a man, SOPHIA
ARNASON ANDERSON, a woman,
JAMES K. TRACY, a woman, and
JENNIFER CURTIS ORTEN, a woman,

Plaintiffs,

v.

GARY HERBERT, a man, SPENCER J.
COX, a man, DEIDRE HENDERSON, a
woman, ANGELA DUNN, a woman,
JOSEPH K. MINOR, a man, and
RICHARD SAUNDERS, a man,

Defendants.

**ORDER ADOPTING MAGISTRATE
JUDGE’S REPORT AND
RECOMMENDATION**

Case No. 1:21-cv-00096-TC-CMR

District Judge Tena Campbell
Magistrate Judge Cecilia M. Romero

Pro se plaintiffs Trevor S. Ericksen, Alena Ericksen, John Walton Orten, Sophia Arnason Anderson, James K. Tracy, and Jennifer Curtis Orten sued various Utah state officials over governmental measures taken to stop the spread of COVID-19. In a forty-seven-count amended complaint, the Plaintiffs alleged that the Defendants’ actions deprived them of their constitutional rights. (Am. Compl., ECF No. 13.) The Defendants moved to dismiss the suit under Federal Rule of Civil Procedure 12(b)(6). (ECF No. 16.) The court referred this case to United States Magistrate Judge Cecilia M. Romero under 28 U.S.C. § 636(b)(1)(B). Judge Romero submitted a nine-page Report and Recommendation (R&R) (ECF No. 27), in which she recommends that the court grant the Defendants’ motion and dismiss the Plaintiffs’ amended complaint.

Judge Romero, after informing the Plaintiffs that they must file written objections within fourteen days, warned that “[f]ailure to object may constitute a waiver of objections upon subsequent review.” (R&R at 8–9, ECF No. 27.) The Plaintiffs have not objected to Judge

Romero's R&R,¹ and the time to do so has expired.² Accordingly, the court need not "make a de novo determination" of any portion of the R&R. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). Having reviewed the R&R, the motion to dismiss, and the amended complaint, the court is convinced that Judge Romero is correct. The Plaintiffs do not have standing to bring their claims, and their amended complaint violates Federal Rule of Civil Procedure 8. They have also not properly moved for leave to amend their amended complaint to fix these deficiencies.

ORDER

Judge Romero correctly applied the law in this case. The court discerns no error. For that reason, the court ADOPTS the R&R (ECF No. 27) and DISMISSES the case.

DATED this 4th day of February, 2022.

BY THE COURT:

A handwritten signature in black ink that reads "Tena Campbell". The signature is written in a cursive, flowing style.

TENA CAMPBELL
United States District Judge

¹ Buried in an exhibit to the Plaintiffs' amended complaint is an "advanced protest" to the authority of any Magistrate Judge in this case. (Am. Compl. Ex. A at 36–37, ECF No. 13-1.) To the extent this is a valid objection, it is overruled. Judge Romero is not the presiding judge in this case; she has been referred to write Reports and Recommendations (not orders) for dispositive pretrial motions like the motion to dismiss here. See 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b); DUCivR 72-2(c); D. Utah General Order 20-034. The district judge is ultimately responsible for issuing dispositive orders in this case.

² Some of the pro se plaintiffs are not notified by email when new entries are posted to the docket, so they must receive mailed notice. The court waited an additional ten days to account for the time required to mail the R&R and to receive any objections via mail. No objections have arrived.